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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/455,964	12/06/1999	RICHARD QIAN	SLA0112 (7146.0048)	5789

55648 7590 07/27/2011

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ART UNIT	**PAPER NUMBER**
2424	

MAIL DATE	DELIVERY MODE
07/27/2011	PAPER

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte RICHARD QIAN and PETER J.L. VAN BEEK

Appeal 2009-007262
Application 09/455,964
Technology Center 2400

Before MARC S. HOFF, CARLA M. KRIVAK, and CARL W. WHITEHEAD, JR., *Administrative Patent Judges*.

WHITEHEAD, JR., *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Introduction

Appellants appeal under 35 U.S.C. § 134(a) from a final rejection of claims 1-12. Appeal Brief 3. We have jurisdiction under 35 U.S.C. § 6(b) (2002). We reverse.

Exemplary Claim

Exemplary independent claim 1 under appeal reads as follows:

1. A method of creating a semantic summary of a video comprising the steps of:

(a) identifying a domain of said video;

(b) using said domain to locate information related to said video at a source other than said video;

(c) extracting a datum related to a semantic event from said information, said semantic event describing a portion of said video;

(d) identifying said portion of said video related to said datum; and

(e) creating a summary of said identified portion of said video in response to the extraction of said datum.

Rejection on Appeal

Claims 1-12 stand rejected under 35 U.S.C. § 102(e) as being unpatentable over U.S. Patent Application Number 2003/0066085 A1 issued to Boyer ("Boyer"). Answer 3-9.

Appellants' Contention

Appellants contend that Boyer discloses a programming guide by which available video content can be browsed by time, category, etc.. and does not disclose the limitation recited in claim 1 of "creating a summary of said identified portion of said video in response to the extraction of said datum." Appeal Brief 6.

Issue on Appeal

Did the Examiner err in finding that Boyer discloses "creating a summary of said identified portion of said video in response to the extraction of said datum?" Appeal Brief 6.

PRINCIPLE OF LAW

"'For a prior art reference to anticipate in terms of 35 U.S.C. § 102, every element of the claimed invention must be identically shown in a single reference.'" *In re Bond*, 910 F.2d 831, 832 (Fed. Cir. 1990) (quoting *Diversitech Corp. v. Century Steps, Inc.*, 850 F.2d 675, 677 (Fed. Cir. 1988)). "These elements must be arranged as in the claim under review," *Bond*, 910 F.2d at 832 (citing *Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 1458 (Fed. Cir. 1984)), but this is not an "ipsissimis verbis" test, *Bond*, 910 F.2d at 832-33 (citing *Akzo N.V. v. United States Int'l. Trade Com'n*, 808 F.2d 1471, 1479 & n.11 (Fed. Cir. 1986)).

ANALYSIS

We have reviewed the Examiner's rejection in light of Appellants' arguments (Appeal Brief and Reply Brief) that the Examiner has erred. We agree with Appellants' conclusion and will not sustain the Examiner's rejection of claims 1-12.

The Examiner contends that the claimed feature of "creating a summary . . ." is interpreted as creating a summary of an image, title, etc., related to the extraction of datum related to images of video clips, video interview segments of the video in response to the extraction of datum related to images of video clips, video interviews, etc., used to generate titles, images, video clips, etc., for display on a web page. Answer 10. The Examiner relies upon Boyer's Figures 30, 32, and 33 as well as paragraphs [0105] and [0119] to [0129]. *Id.*

In the Reply Brief, the Appellants respond that the Examiner cannot simultaneously contend that the video clips, video interviews, episodes etc., are both the claimed datum identified from the information external to the video and the portions of the video identified by the datum. Reply Brief 4. Appellants further argue that when a claim is structured as "find A, extract A from B, use B to locate C," the Examiner cannot read each of A, B, and C on the same thing in the prior art. Reply Brief 4-5. Appellants repeat the argument made in the Appeal Brief that one cannot create a summary using video clips on a web page, when that web page displays what is alleged to be the summary. Reply Brief 5.

We agree with Appellants' assessment of the rejection. The Examiner contends that even though the alleged prior art summary is already accessible via Boyer's web page when a viewer accesses the web page to

extract data related to a video being summarized, the rejection is still proper because the act of navigating to the web page creates the summary by loading the web page into the browser. Answer 10-11. The Examiner's contention that the act of navigating to the web page creates the summary by loading the web page into the browser appears to be relying upon circular logic and fails to disclose the claimed limitations. Therefore, we will not sustain the Examiner's rejection of claims 1-12.

CONCLUSION

The Examiner has erred in rejecting claims 1-12 as being unpatentable under 35 U.S.C. § 102(e).

REVERSED

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